

FILED

UNITED STATES COURT OF APPEALS

OCT 05 2009

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

DENNIS MONTGOMERY, an individual;  
et al.,

Plaintiffs - Appellants,

v.

MICHAEL J. FLYNN,

Defendant - Appellee.

No. 09-15134

D.C. No. 3:06-cv-00056-PMP-VPC  
District of Nevada,  
Reno

ORDER

The appellants' opening brief was due September 21, 2009. The opening brief has not been filed. Accordingly, this appeal is dismissed for failure to prosecute. 9th Cir. R. 42-1. A copy of this order sent to the district court shall act as and for the mandate of this court.

For the Court:  
MOLLY C. DWYER  
Clerk of the Court

Teresa A. Haugen, Deputy Clerk  
9th Cir. R. 27-7/Advisory Note to R. 27  
and 9th Cir. R. 27-10